

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES SEABA and CORY PHILLIPS,

Plaintiffs,

vs.

Civ. No. 02-103 LH/RHS

MESOSYSTEMS TECHNOLOGY, INC.,

Defendant.

ORDER DENYING DEFENDANT'S EMERGENCY
MOTION FOR RECONSIDERATION OF ORDER ON
ATTORNEY-CLIENT PRIVILEGE FOR PROTECTIVE ORDER,
FOR ORDER TO STRIKE AND FOR EXPEDITED BRIEFING

This matter having come before the Court on the Defendant's Emergency Motion for Reconsideration of Order on Attorney-Client Privilege, the Court having considered the pleadings and being advised that on April 1, 2003, the Honorable W. Daniel Schneider conducted an emergency telephonic hearing pursuant to the request of counsel relative to discovery during an oral deposition. Judge Schneider overruled the Defendant's objection concerning attorney-client privilege and directed the deponent to answer the questions propounded to him. After Judge Schneider's ruling was announced, the deponent proceeded to answer questions about the subject communications.

Subsequently, counsel determined that Judge Schneider was not the assigned United States Magistrate for the above captioned cause and contacted my office asking that I rule on Defendant's Emergency Motion for Reconsideration. I respectfully declined to rule on the

telephone and asked counsel to submit either a written motion or, in the alternative, copies of the case law upon which they relied.

The Court has now considered these submittals and hereby affirms Judge Schneider's decision wherein he overruled Defendant's objection based on the lawyer-client privilege.

IT IS ORDERED that Defendant's objections concerning attorney-client privilege on the basis of joint client common interest privilege are respectfully overruled.



ROBERT SCOTT HAYES
United States Magistrate Judge